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DHSC, LLC d/b/a Affinity Medical Center, Community Health Systems, Inc., and/or Community Health Systems Professional Services Corporation, LLC, a single or joint employers and National Nurses Organizing and Committee (NNOC)

DHSC, LLC d/b/a Affinity Medical Center, Community Health Systems, Inc., and/or Community Health Systems Professional Services Corporation, LLC, a single or joint employers and California Nurses Association/National Nurses Organizing Committee (CNA/NOC)

Hospital of Barstow Inc. d/b/a Barstow Community Hospital, Community Health Systems, Inc., and/or Community Health Systems Professional Services Corporation, LLC, a single or joint employers and California Nurses Association/National Nurses Organizing Committee (CNA/NNOC)

Bluefield Hospital Company, LLC d/b/a Bluefield Regional Medical Center, Community Health Systems, Inc., and/or Community Health Systems Professional Services Corporation, LLC, a single employer and/or joint employers and National Nurses Organizing Committee (NNOC)

Fallbrook Hospital Corporation d/b/a Fallbrook Hospital, Community Health Systems, Inc., and/or Community Health Systems Professional Services Corporation, LLC, a single employer and/or joint employers and California Nurses Association/ National Nurses Organizing Committee (CNA/NNOC), AFL-CIO

Greenbrier, VMC, LLC d/b/a Greenbrier Valley Medical Center, Community Health Systems, Inc., and/or Community Health Systems Professional Services Corporation, LLC, a single employer and/or joint employers and National Nurses Organizing Committee (NNOC), AFL-CIO

Watsonville Hospital Corporation d/b/a Watsonville Community Hospital, Community Health Systems, Inc., and/or Community Health Systems Professional Services Corporation, LLC, a single employer and/or joint employers and California Nurses Association (CNA), National Nurses United. Cases 08-CA-117890, 08-CA-124398,

08-CA-131772, 08-CA-144212, 08-CA-153759, 08-CA-166039, 08-CA-130717, 10-CA-094403, 10-CA-110743, 10-CA-112255, 10-CA-116246, 10-CA-117698, 10-CA-121156, 10-CA-126416, 10-CA-124354, 21-CA-121480, 21-CA-124295, 21-CA-134774, 31-CA-116300, 31-CA-119831, 31-CA-124540, 31-CA-133880, 31-CA-153504, 32-CA-120642, and 32-CA-124332

August 10, 2016

ORDER¹

BY CHAIRMAN PEARCE AND MEMBERS HIROZAWA
AND MCFERRAN

The General Counsel's request for special permission to appeal from the administrative law judge's March 8, 2016 denial of the General Counsel's March 7, 2016 motion to amend the amended consolidated complaint,² the judge's dismissal of the General Counsel's written amendment, and her order directing the General Counsel to provide further details in the bill of particulars is granted. On the merits, we overrule the judge's actions for the reasons discussed below.

On March 3, 2016,³ Administrative Law Judge Eleanor Laws, over the objections of Respondents Community Health Systems Professional Services Corporation, LLC (CHSPSC) and Community Health Systems, Inc. (CHSI), issued an on-the-record oral ruling granting the General Counsel's motion to amend the amended consolidated complaint to allege that CHSPSC directly participated in certain alleged unilateral changes to Respondent Affinity's handbook rules. On March 4, CHSPSC moved for a bill of particulars specifying the alleged acts by CHSPSC concerning the rule changes and by whom those acts were allegedly committed. The judge directed the General Counsel to provide such additional details.⁴ On March 7, the General Counsel moved to file a written amendment to the amended consolidated complaint, including allegations identifying CHSPSC supervisors or agents and specifying which of them were involved in each alleged rule change. The judge granted the General Counsel's motion, over the objection of CHSPSC.

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

² The judge's March 8 ruling reversed her March 7 ruling to permit the requested amendment.

³ The General Counsel erroneously states that the judge made her ruling on March 9, 2016. The General Counsel's request for special permission to appeal inaccurately states other dates as well. We have reviewed the record and find that the dates cited in this Order are correct.

⁴ The General Counsel does not challenge the judge's March 4 ruling.

On March 8, on CHSPSC's motion, the judge reversed her earlier ruling and dismissed the General Counsel's amendment, finding it deficient under Section 102.15(b) of the Board's Rules and Regulations. Thereafter, the General Counsel filed a timely request for special permission to appeal the judge's dismissal of the proposed written amendment and order to provide additional information pertaining to the allegations, and CHSPSC filed a response.

The General Counsel's request for special permission to appeal the judge's oral ruling dismissing the written amendment as deficient and her order that the General Counsel provide additional details is granted. After careful consideration, we find that the amended consolidated complaint, with the General Counsel's further written amendment, meets the notice pleading requirements of Section 102.15(b).

Section 102.15 provides that a complaint "shall contain":

- (a) a clear and concise statement of the facts upon which assertion of jurisdiction by the Board is predicated, and (b) a clear and concise description of the acts which are claimed to constitute unfair labor practices, including, where known, the approximate dates and places of such acts and the names of respondent's agents or other representatives by whom committed.

The Sixth Circuit explained the role of an unfair labor practice complaint in *NLRB v. Piqua Munising Wood Products Co.*, 109 F.2d 552 (1940), as follows:

The sole function of the complaint is to advise the respondent of the charges constituting unfair labor practices as defined in the Act, that he may have due notice and a full opportunity for hearing thereon. The Act does not require the particularity of pleading of an indictment or information, nor the elements of a cause like a declaration at law or a bill in equity. All that is requisite in a valid complaint before the Board is that there be a plain statement of the things claimed to constitute an unfair labor practice that respondent may be put upon his defense.

Id. at 557, quoted in *Salon/Spa at Boro, Inc.*, 356 NLRB 444, 463 (2010); see also *Smith Industrial Maintenance Corp.*, 355 NLRB 1312, 1313–1314 (2010) (complaint alleging that the respondent had unlawfully failed to comply with the parties' contract by failing to make IRA contributions, compensate employees fully under the contract, provide health insurance, and deduct and remit union dues met requirements of Sec. 102.15(b)). A complaint need not meet the strict pleading standards of a court of law. *Boiler-*

makers Local 363 (Fluor Corp.), 123 NLRB 1877, 1913 (1959).

As a general matter, a bill of particulars is justified "only when the complaint is so vague that the party charged is unable to meet the General Counsel's case." *McDonald's USA, LLC*, 362 NLRB No. 168, slip op. at 1 (2015), quoting *North American Rockwell Corp. v. NLRB*, 389 F.2d 866, 871 (10th Cir. 1968). The General Counsel is not required to plead his evidence or the theory of the case in the complaint. Id.; *Boilermakers Local 363*, supra.

The amendment offered by the General Counsel, as detailed above, adequately puts CHSPSC on notice of the matters to be litigated, in order to permit it to prepare a defense. It states the nature of the unfair labor practices alleged (specific unilateral rule changes), the names of the CHSPSC supervisors allegedly involved in each change, the dates of the changes, and the location (Affinity Medical Center). Moreover, there is no evidence that the General Counsel knows of additional CHSPSC supervisors or agents who were involved in the alleged violations and has failed to identify them in the written amendment. Thus, we find that the written amendment that the General Counsel proposed and the judge initially accepted fully satisfies the requirements of Section 102.15(b), and that the judge's subsequent rejection of it was an abuse of discretion.

Accordingly, we grant the General Counsel's request for special permission to appeal, overrule the judge's finding that the General Counsel's March 7 written amendment was deficient, and reverse her order directing the General Counsel to provide further details in the bill of particulars. We direct the judge to accept the General Counsel's March 7 written amendment, and, in order to avoid confusion in this complex proceeding, we direct the General Counsel to file a unified amended complaint including the allegations set forth in that amendment.⁵

Dated, Washington, D.C., August 10, 2016

Mark Gaston Pearce, Chairman

Kent Y. Hirozawa, Member

Lauren McFerran, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

⁵ The written amendment includes a number of inadvertent typographical errors, which we presume will be corrected in the unified amended complaint.